

FIRST USA COMMERCIAL CARD PROGRAM

Master Agreement

This First USA Commercial Card Program Master Agreement (the "**Agreement**") is dated as of 10/18, 2000, between CITY OF COLLEGE STATION (the "**Company**"), a home rule municipal corporation, and FIRST USA FINANCIAL SERVICES, INC. ("**First USA**"), a Utah industrial loan corporation.

RECITALS

WHEREAS, First USA is a member and licensee of Visa U.S.A., Inc. ("**Visa**") and MasterCard International, Inc. ("**MasterCard**") and as such is authorized to issue Visa and MasterCard credit cards bearing Visa and MasterCard logos and service marks, to open Visa and MasterCard accounts and to offer Visa and MasterCard services and benefits as they may be made available; and

WHEREAS, First USA has developed a commercial card system composed of Visa and MasterCard credit cards and unique card-use controls, and First USA offers specialty reports to facilitate and expedite the purchase of, and payment for, goods and services acquired for the legitimate business benefit of a business concern (the "**Program**"); and

WHEREAS, the Company desires to participate in the Program, subject to the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements, provisions, and covenants contained in this Agreement, the parties agree as follows:

SECTION 1 DEFINITIONS

1.1 DEFINITIONS. Certain terms used in this Agreement, unless the context requires otherwise, shall have the following meanings.

"**Account**" means the Visa or MasterCard account of a Cardholder and/or the Company maintained with First USA.

"**Billing Cycle**" means a monthly period that ends on the same day each calendar month, unless such day is not a Business Day, in which case, the last day of such period shall be the Business Day immediately before or after such day.

"**Business Day**" means a day, other than a Saturday or a Sunday, on which commercial banks generally are open for business in Salt Lake City, Utah, and New York, New York.

"**Card**" means a Visa or MasterCard charge card issued by First USA pursuant to this Agreement.

"**Card Cancellation Certificate**" means a written statement executed by an Authorized Signer, in form and substance satisfactory to First USA, identifying certain Cards by Account numbers and Cardholder names and confirming (i) that the Company has retrieved and destroyed such Cards, or (ii) that the Company used reasonable efforts to retrieve such Cards but was unable to do so.

"**Cardholder**" means an individual in whose name a Card is issued or any other employee, officer or director of, or other individual designated by, the Company as being expressly authorized to use a Card or Account.

"**Cardholder Agreement**" means an agreement between First USA and a Cardholder governing the use of a corporate travel and entertainment Card, as amended from time to time.

"**Ordinary Course Transactions**" means all Transactions that are made for the business purposes of the Company or otherwise benefit the Company directly or indirectly.

"**Other Transactions**" means all Transactions which are not Ordinary Course Transactions.

"**Transaction**" means a purchase, a cash advance or any other account activity that results in a debit to an Account.

"**Unauthorized Transaction**" means any Transaction by a person, other than the Cardholder to whom the relevant Card was issued, who was not authorized to use such Card by either such Cardholder or the Company and from which Transaction neither the Cardholder nor the Company receives any direct or indirect benefit.

SECTION 2 CARD ISSUANCE

2.1 PROGRAM PARTICIPATION. Subject to the terms of this Agreement, First USA shall issue Cards to, and/or establish Accounts for, the Company with such capabilities as may be elected by the Company on Exhibit A hereto.

The Company and Cardholders shall use the Cards and Accounts for business or commercial purposes only and not for personal, family, or household purposes. The Company shall instruct all Cardholders to use the Cards and Accounts strictly for business or commercial purposes.

2.2 EMBOSSING. First USA shall prepare Cards bearing the Cardholder's name or a description of a vehicle by make, model and vehicle identification number, as appropriate, and, if elected, the Company's name, trademark, or logo (the "**Marks**"), in a form supplied by the Company and conforming to First USA and Visa/MasterCard guidelines. If the Company elects to have its Marks embossed on the Cards, the Company hereby grants First USA a non-exclusive limited license to apply the Marks to the Cards solely for use in connection with the Program and for no other purpose.

2.3 CARD DELIVERY. First USA shall deliver Cards and/or related materials to the designated Company Administrator. Upon its receipt of any Card, the Company shall promptly deliver such Card to the Cardholder named thereon together with any related materials supplied by First USA. From time to time during the term of this Agreement, First USA may recommend and/or implement security procedures regarding the custody and handling of Cards. The Company agrees to comply with such security procedures.

2.4 CREDIT LIMITS; CREDITWORTHINESS.

(a) Subject to the terms of this Agreement and the Cardholder Agreements, First USA shall authorize extensions of credit with respect to (a) each Card or Account up to a specified total dollar amount (the "**Account Credit Limit**"), and (b) all Cards and Accounts up to a specified total dollar amount (the "**Aggregate Credit Limit**"). In no event shall First USA be obligated to grant credit in excess of any applicable credit limit. First USA may at any time investigate (i) the creditworthiness of any Cardholder to whom a Card is to be or has been issued, and (ii) the financial condition of the Company, in connection with the issuance of Cards, maintenance of Accounts, and establishment of credit limits.

(b) Subject to the terms of this Section 2.4(b), First USA at any time may cancel or suspend the right of any Cardholder to use any Card or Account, decline to

issue or establish any Card or Account, or increase or decrease any Account Credit Limit or the Aggregate Credit Limit.

2.5 ISSUANCE, RENEWAL, REPLACEMENT AND CANCELLATION OF CARDS.

(a) Promptly following its execution of this Agreement, the Company will provide to First USA a written or electronically transmitted request (a "**Card Request**") which shall include the names, titles, and corporate addresses of those Cardholders and the make, model and vehicle identification number of vehicles to whom or for which the Company wishes First USA to issue a Card or establish an Account. The Company may, from time to time, submit additional Card Requests authorizing the issuance of new Cards or the establishment of new Accounts. The Company agrees not to submit, without the prior written consent of First USA, a Card Request with respect to any person whose Card privileges have previously been canceled.

Each Card Request must be executed by a person (an "**Authorized Signer**") for whom First USA has an effective Authority Certification. An "**Authority Certification**" shall mean a certificate of an authorized officer or representative of the Company certifying to the identity of the then-incumbent officers, partners, members or other representatives of the Company who are authorized to execute Card Requests and certifying the authenticity of a specimen signature of each Authorized Signer listed in such Authority Certification. The Authority Certification most recently received by First USA shall supersede any prior Authority Certification unless specifically stated to the contrary in writing.

(b) Where emergency issuance of a Card is requested, First USA may fulfill such request at an additional charge as set forth on **Exhibit B**. The billing for such charge shall occur in the next billing statement for the relevant Account. Unless First USA receives contrary written instructions from the Company, and subject to First USA's rights hereunder, First USA shall replace each expiring Card with a replacement Card at least 30 days prior to the Card's expiration date.

(c) Each Cardholder shall be required to sign the Card issued to such Cardholder and shall be subject to the terms of the Cardholder Agreement, if any.

(d) The Company shall promptly make a request pursuant to Section 2.5(e) that a Card or Account be canceled, or that the authority of any Cardholder to use a particular Card or Account be terminated, as the case may be, if:

(i) the Company or a Cardholder knows of or suspects the loss, theft or possible unauthorized use of a Card or Account. In such event, the Company shall not be liable for any Transactions occurring on the Card or Account after the effective time of such request. In addition, the Company shall not be liable for any Transactions, resulting from Card theft or other fraudulent use by non-Cardholders, occurring on the Card or Account prior to the effective time of such request if the suspected loss, theft or unauthorized use was promptly reported to First USA in accordance with Section 2.5(e), unless such theft or fraudulent use occurs as a result of the Company's lack of reasonable security precautions and controls surrounding the Cards or Accounts or such use results in a benefit, directly or indirectly, to the Company or any Cardholder;

(ii) the Company wishes to cancel a Card or Account or terminate the authority of any Cardholder to use a particular Card or Account. In such event, the Company shall not be liable for any Transactions occurring on the Card or Account (or Transactions made by such Cardholder, as the case may be) after the effective time of such request; or

(iii) the Cardholder's employment or other relationship with the Company is terminated. In such case, the Company agrees to provide such documentation and take such actions as First USA may request in connection with a corporate liability waiver claim with Visa, MasterCard or any insurer relating to such terminated Cardholder. First USA will make available to the Company any corporate liability waiver coverage extended by Visa or MasterCard. If the effective time of the Company's request is not within two Business Days after such termination, or if the Company fails to provide the documentation or take the actions requested by First USA as a result of such termination, the Company shall be liable for all Transactions with respect to such Cardholder's Card and Account occurring prior to the effective time of the Company's request but shall not be liable for any Transactions occurring on the Card or Account after such time.

(e) Each request made pursuant to Section 2.5(d) shall be made by telephone (at 1-800-270-7760 or such other number as First USA may provide), fax, electronic

mail, or PaymentNet™ and shall specify (i) the relevant Cardholder's name, Account number and last known home and business address, and (ii) such other information as the Company shall deem appropriate or First USA shall reasonably request. The Company's request shall be deemed effective when First USA receives such request and makes the corresponding changes in its processing system (which changes shall be made promptly, taking into account the mode of transmission and time of receipt).

2.6 TRANSACTION DATA; ACCOUNT MAINTENANCE.

(a) Unless an alternative reporting system is selected in **Exhibit B**, First USA shall make Card and Account transaction data available to the Company through First USA's PaymentNet™ internet-based reporting system. Through PaymentNet™, First USA shall provide the Company with password-protected daily access to Card and Account transaction data and other reports at no additional charge to the Company. Such reporting shall be provided in accordance with such manuals, training materials and other information as First USA shall provide from time to time. If the Company selects an alternative reporting system, the Company's use of such alternative system shall be subject to the terms contained in a Transaction Data Addendum attached hereto.

(b) The Company may from time to time, and in accordance with guidelines established by First USA, perform certain account maintenance functions online, including, without limitation, adjustment of Account Credit Limits and blocking of Visa and MasterCard Merchant Category Codes ("**MCCs**"). To the extent permitted by law and the limitation on damages contained therein, the Company, on behalf of itself and its owners, directors, officers, employees, agents, and representatives (collectively, the "**Company Group**"), hereby releases and agrees to hold harmless First USA, its affiliates, and their respective directors, officers, employees, agents, and representatives (collectively, the "**First USA Group**") from and against any loss, claim, damages, liability, cost, expense, action or cause of action whatsoever that any of them now have or may hereafter have against any member of the First USA Group, or to which any member of the First USA Group may become subject, arising out of or relating to (i) actions taken by First USA upon the instructions of the Company or any Authorized Signer, or (ii) any online maintenance activity performed by any member of the Company Group or any other person using a Company password, unless if it occurs as a result of the negligence or misconduct of First USA or any of its employees.

SECTION 3 CARD AND ACCOUNT USE

3.1 PURCHASES. Cardholders may use Cards and Accounts to purchase, in the normal course of business, goods and services in accordance with the MCCs selected and/or blocked at the Company's request. First USA shall deny requests for purchase authorizations that fall outside such parameters, and to deny requests for cash advances for Cardholders who are not permitted to obtain cash advances or who have exceeded the predetermined cash advance limit, provided Transaction authorization is required. The parties acknowledge, however, that authorizations and declinations are necessarily based on the accuracy of the Transaction data transmitted to First USA. Under no circumstances shall First USA be liable to the Cardholder or the Company (nor shall the Cardholder or the Company be relieved of its obligation to pay the amounts charged or advanced) in the event any such Transactions are permitted on the basis of inaccurate or misleading data or other factors beyond the reasonable control of First USA.

3.2 USE OF CARDS. Each Transaction is subject to the terms and conditions of the Cardholder Agreement, if any, in effect at the time of the Transaction. First USA shall have no obligation or responsibility to the Company or to any Cardholder in the event that any merchant, entity or person refuses to honor a Card or Account. A Card or Account may be used only by the Cardholder to whom it is issued or who is authorized to use it, as the case may be, and may not be transferred to another Cardholder or any other person or entity.

Without limiting any other rights of First USA hereunder or under applicable law, First USA may refuse to authorize any Transaction in the event that: (a) any balance owed in respect of the Account to which such Transaction relates or any balance owed by the Company on any Account, is past due; (b) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) of all Accounts would exceed the Aggregate Credit Limit; (c) the amount of the Transaction plus the outstanding balance (including Transactions authorized but not yet posted) of the relevant Account would exceed the Account Credit Limit for such Account; or (d) any other reason exists for declining a Transaction as set forth herein, in the Cardholder Agreement or the operating regulations of Visa or MasterCard or under applicable law.

3.3 OBLIGATIONS OF THE COMPANY. The Company shall:

- (a) establish and maintain a process to ensure the timely and accurate reimbursement of all legitimate business expenses to its Cardholders;
- (b) not exceed or permit Cardholders to exceed the Aggregate Credit Limit or any Account Credit Limit;
- (c) return to First USA, or provide a Card Cancellation Certificate with respect to, all Cards and related Program materials upon the expiration or termination of this Agreement; and
- (d) make all reasonable attempts to ensure that each Cardholder complies with the terms of the Cardholder Agreement, if any.

SECTION 4 LIABILITY FOR USE

4.1 PROMISE TO PAY.

(a) The Company agrees to pay and perform when due all of its Obligations. As used herein, the term "Obligations" means all obligations of the Company under this Agreement, including without limitation:

(i) with respect to Accounts, the indebtedness, obligations and liabilities arising under such Accounts, including, without limitation, all charges, fees and other amounts payable under or in connection with each such Account; and

(ii) any and all costs (including reasonable attorneys' fees) incurred in enforcing the obligations of the Company hereunder.

(b) Except as expressly set forth herein, the Company hereby waives all presentments; demands for performance or payment; protests; notices of protest, nonperformance, dishonor, default and non-payment; notices of the existence, creation or occurrence of new or additional obligations by the Cardholders; and all other notices or formalities.

(c) All amounts due under the Cards and Accounts shall be billed directly to the Company via periodic statements and shall be payable in full upon receipt by the Company, except as otherwise provided in this Agreement with respect to contingent liability travel and entertainment Accounts. Such statements may, upon mutual agreement by both parties, be sent by mail or made available electronically via PaymentNet, the Internet, or other means. The Company shall remit payment to First USA under the terms described herein.

(d) All payments hereunder shall be made in U.S. dollars and by wire transfer (or such other payment arrangement as is mutually agreed upon by the Company and First USA). All charges will be posted to Accounts in U.S. dollars. Transactions in foreign currencies will be converted to U.S. Dollars at the exchange rate determined by MasterCard (or its affiliates) or Visa (or its affiliates), using their then current currency conversion procedures and charges. Such Transactions will be subject to any applicable fees described in Exhibit B. The currency conversion rate used on the conversion date may differ from the rate in effect on the date a Card or Account is used.

(e) With respect to Account balances subject to the Company's guaranty (as described on Exhibit A), in the event that any amount owing by a Cardholder remains unpaid for 61 days after the date of the first invoice on which such amount appears and First USA believes that the Company may be liable for such amount pursuant to this Agreement, First USA may invoice the Company for such amount. Upon receipt of the invoice, the Company shall immediately pay to First USA the full amount thereof for which it is liable pursuant to this Agreement. If the Company determines that the invoice contains charges for which it is not liable, the Company must submit documentary evidence in support thereof, in form satisfactory to First USA, as well as submit any documentation and take any actions required by Visa or MasterCard in connection with its corporate liability waiver program, in the event such coverage is available.

4.2 DISPUTED AMOUNTS.

(a) The Company and its Cardholders shall use their best efforts to resolve all business-to-business purchase disputes directly with the relevant merchants, including, without limitation, any disputes relating to purchase price discrepancies or quality, warranty, or performance issues.

(b) The Company or Cardholder may dispute an amount reflected on a billing statement (unless the Transaction resulted from the use of a Card on which no Cardholder's name is embossed, in which event the Company or Cardholder may not dispute such amount) if (i) the amount does not reflect the actual amount of the Transaction; (ii) the Transaction did not result from the use of the relevant Card or Account; or (iii) the amount being disputed is a fee that is not properly accrued under this Agreement. The Company or Cardholder shall notify First USA in writing of its intention to dispute an amount within 60 days following the date of the billing statement on which the disputed Transaction or fee first appears. First USA shall promptly investigate the dispute. Pending such investigation, a conditional credit in the amount of the dispute will be applied to the Account. If First USA determines that the amount is properly payable, the Company or Cardholder, as the case may be, will remit such amount to First USA on the Company's (or the Cardholder's, as the case may be) receipt of its next billing statement. Fees (including interest, finance charges, or late fees) may accrue with respect to the disputed amount pending resolution of the dispute only if it is determined that the amount is properly payable.

4.3 CHARGEBACKS. In the event that any Transaction is posted to an Account involving fraud, unauthorized use, or any other circumstance under which the merchant may be held liable under applicable Visa or MasterCard rules, the Company or Cardholder shall so notify First USA in writing. First USA shall attempt to charge the Transaction back to the merchant in accordance with Visa or MasterCard procedures; provided, however, if the Transaction resulted from the use of a Card on which no Cardholder's name is embossed, no chargeback will be granted for such Transaction. Any accepted chargeback will be credited to the Company's or Cardholder's next billing statement. The Company or Cardholder shall not be relieved of liability for the Transaction if the chargeback is rejected in accordance with Visa or MasterCard rules.

SECTION 5 PROGRAM FEES, TERM AND TERMINATION OF AGREEMENT

5.1 FEES. The Company agrees to pay to First USA all applicable fees described in Exhibit B. Such fees will be included in the billing statement for the Billing Cycle in which the fees accrue. Fees not listed in Exhibit B but agreed by the Company may be invoiced separately and each such invoice shall be payable upon receipt.

5.2 TERM. This Agreement shall have an initial term (the "Initial Term") of three years commencing on the date hereof and shall be renewed automatically for successive two-year terms (each a "Renewal Term") unless written notice of termination is given by either party at least 90 days prior to the end of the Initial Term or any Renewal Term. In addition, First USA may terminate this Agreement at any time upon 90 days' prior written notice to the Company. Prior to expiration or termination of this Agreement for any reason, the Company agrees to either retrieve all Cards from Cardholders, cut such Cards in half, and return them to First USA; or provide a Card Cancellation Certificate with respect to such Cards.

5.3 DEFAULT. As used in this Agreement, the term "Default" shall mean: (i) failure of the Company to remit payment to First USA in accordance with the terms hereof; (ii) the failure of either party to comply with any other term of this Agreement or any other agreement between the parties, provided such failure is not remedied within 15 days of the defaulting party's receipt of written notice from the other party specifying the breach; (iii) the representation by the Company of any facts, either in this Agreement or in its financial information provided to First USA in connection with this Agreement, that prove to have been materially incorrect or misleading when such representation was made; (iv) the filing by or against either party of any petition in bankruptcy, insolvency, receivership, or reorganization or pursuant to any other debtor relief law or the entry of any order appointing a receiver, custodian, trustee, liquidator, or any other person with similar authority with respect to the assets of either party; (v) the insolvency, dissolution, reorganization, assignment for the benefit of creditors or any other material adverse change in the financial condition of either party; (vi) the entry of any adverse judgment, order, or award against the Company that has a material adverse impact on the financial condition of the Company; (vii) any change in control or material change of ownership of the Company or any other event having a material adverse financial impact on the Company or a detrimental effect on the Company's ability to perform the Obligations, including, without limitation, the taking of any action by the Company to consolidate or merge or sell any substantial part of its assets; (viii) any default by the Company under the terms of any material indebtedness owed by the Company to any third party; or (ix) fraudulent or other unauthorized use of Cards or Accounts or credit losses with respect thereto exceeding First USA's operating tolerances.

5.4 REMEDIES; DAMAGES.

(a) Either party may terminate this Agreement at any time upon the Default of the other party. Except where a remedy is expressly provided herein or as otherwise provided in Section 5.4(b) or (c), termination of this Agreement will be a party's sole remedy for breach; provided, that no termination or expiration of this Agreement shall release or discharge the Company from the payment of any amount otherwise payable under this Agreement.

(b) Upon a Default by the Company, First USA may, in its sole discretion, suspend all services and obligations hereunder or may shorten the Billing Cycle in lieu of termination of this Agreement until such time as First USA determines to its satisfaction that such Default has been cured. By suspending its services and obligations, First USA shall not be deemed to have waived any right which it may have, whether as a result of the Default or otherwise, to terminate this Agreement.

(c) A breaching party shall be liable for any actual damages caused by its breach, but neither party will be liable under any provision of this Agreement for any punitive or exemplary damages, or for any special, indirect or consequential damages (including, without limitation, costs incurred in developing and implementing the Program, lost revenues, lost profits, or lost prospective economic advantages) arising from or in connection with any performance or failure to perform under this Agreement, even if such party knew or should have known of the existence of such damages, and each party hereby releases and waives any claims against the other party for such damages.

SECTION 6 MISCELLANEOUS

6.1 REPRESENTATIONS AND WARRANTIES. Each party represents and warrants that this Agreement constitutes the legal, valid, binding and enforceable agreement of such party and that its execution and performance of this Agreement (a) do not constitute a breach of any agreement of such party with any third party, or of any duty arising in law or equity, (b) do not violate any law, rule or regulation applicable to it, (c) are within its corporate powers, and (d) have been authorized by all necessary corporate action of such party.

6.2 NOTICES. Except as otherwise provided herein, any notice or other communication to be given under this Agreement shall be in writing and delivered personally, by overnight delivery via a nationally-recognized delivery service or by prepaid registered or certified mail, addressed to the relevant party at its address for notices specified on Exhibit B, or to such other address as such party may from time to time designate in writing to the other. The date of delivery of a notice (i) delivered personally shall be deemed to be the date delivered; (ii) sent by overnight delivery shall be deemed to be the following day; and (iii) sent by mail shall be deemed to be three Business Days after the date on which such notice is deposited in the United States mail.

6.3 CHANGES. Changes to this Agreement shall be effective only if made by written agreement signed by both parties. Changes to any Cardholder Agreement shall be effective immediately upon receipt by the Cardholder of notice of such changes.

6.4 FINANCIAL STATEMENTS. The Company agrees to furnish First USA copies of its consolidated audited financial statements as soon as available, but not later than 180 days following the end of each fiscal year of the Company. All such financial statements shall include an income statement for the applicable fiscal year and a balance sheet, shall have been prepared in accordance with generally accepted accounting principles, consistently applied, and shall be in accordance with the books and records of the Company. The Company shall provide, in a timely manner, such other current financial information concerning the Company as First USA may reasonably request.

6.5 ASSIGNMENT. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns; provided, that the Company may not assign this Agreement or any interest, payment, or rights hereunder without the prior written consent of First USA.

6.6 FORCE MAJEURE. If either party is rendered unable, wholly or in part, by a force outside the control of such party (including, but not limited to, an act of God, war, fire, flood, explosion, act of governmental authority, strike, civil disturbance or breakdown of telephone, computer or automated mailing equipment) to carry out its obligations under this Agreement (other than a payment obligation), or First USA is notified by a state or federal regulatory body or by Visa or MasterCard that any aspect of the Program or this Agreement does not comply with any

applicable law, regulation, rule, policy, or order applicable to First USA, the affected party shall give the other party prompt written notice to that effect. Thereafter, the affected obligations of the party giving the notice shall be suspended and the failure to perform such obligations shall not be deemed a breach of or Default under this Agreement so long as the affected party is unable to so perform for such reason.

6.7 ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties on the subject matter hereof and supersedes all prior discussions, representations and agreements between the parties. All exhibits and addenda attached hereto are hereby incorporated by reference and made a part of this Agreement.

6.8 SEVERABILITY AND WAIVER. If any portion of this Agreement is stricken as an invalid provision, the remaining portions shall remain in full force and effect and shall continue to be binding upon the parties. Failure of either party to exercise any of its rights under this Agreement in a particular instance shall not be construed as a waiver of those rights or any other rights for any purpose.

6.9 MEDIATION. Except to the extent covered by applicable Visa and MasterCard rules, should any disagreement or dispute related to this Agreement or any Transactions (each a "Dispute"), arise between the Company and First USA either during this Agreement or after termination or expiration hereof, the parties agree to exchange relevant information and cooperate in good faith to attempt to resolve the Dispute. If the parties are unable to settle such Dispute, a formal mediation procedure may be commenced by either party under the then-current CPR Institute for Dispute Resolution ("CPR") Model Procedure for Mediation of Business Disputes by giving written notice to the other party and delivering a written request to CPR to select an experienced neutral mediator and a proposed time and date for mediation. All mediators shall be selected from the CPR Panel of Neutrals unless the parties mutually agree to a different neutral mediator. All mediators' fees shall be equally shared by the parties. The parties shall participate in good faith in the mediation and if the parties reach a resolution of the Dispute, it shall be reduced to writing. The mediation shall take place in College Station, Texas unless otherwise agreed by the parties. If the Dispute cannot be settled by mediation, the parties shall be free to institute other proceedings or to take other actions permitted by applicable law and this Agreement to resolve such Dispute.

6.10 CHOICE OF LAW; JURISDICTION. The laws of the State of Texas will govern all matters except that Utah law (and, as applicable, federal law), and not Texas law, relating to banking, lending, credit cards and credit card programs shall apply to the Program and the related transactions contemplated by this Agreement. The parties hereto irrevocably consent to the personal jurisdiction of the courts of the State of Texas and of any federal courts located therein for purposes of all legal proceedings arising from or relating to this Agreement or the transactions contemplated hereby.

6.11 SURVIVAL. Sections 4, 6.9, 6.10 and 6.12 shall survive the termination or expiration of this Agreement.

6.12 CONFIDENTIALITY. Except as otherwise required by law and/or the Texas Open Records Act, Chapter 551 of the Texas Government Code, all information furnished by either party in connection with this Agreement, the Program, or the Transactions contemplated hereby shall be kept confidential (and shall be used by the other party only in connection with this Agreement), except to the extent that such information (a) is already lawfully known when received, (b) thereafter becomes lawfully obtainable from other sources, (c) is required to be disclosed in any document filed with the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, or any other agency of any government, or (d) is required by law to be disclosed, provided that notice of such disclosure has been given (when legally permissible) by the party proposing to make such disclosure, which notice, when practicable, shall be given sufficiently in advance of the proposed disclosure to permit the other party to take legal action to prevent the disclosure. Upon termination of this Agreement, each party shall promptly cause all copies of documents or extracts thereof containing any such information and data which has been provided by or which relates to the other party to be returned to such other party; provided, that each party may retain in its files copies of such materials as it shall deem necessary solely for archival purposes.

6.13 NAME AND TRADEMARK. Except as otherwise provided herein, neither party shall use the name or logo of the other party without such party's written consent.

6.14 VISA AND MASTERCARD FEE ADJUSTMENTS. In the event that there is a change deemed by First USA to be material in the way First USA is

compensated by Visa or MasterCard, First USA may seek to re-negotiate the financial terms of this Agreement. The Company shall have no obligation to renegotiate such terms; provided, that if the parties cannot agree on an adjustment of such terms, then First USA at its option may (a) allow this Agreement to remain in effect without any such adjustment, or (b) terminate this Agreement upon written notice to the Company.

6.15 RELATIONSHIP OF PARTIES. Nothing contained in this Agreement shall be construed as constituting or creating a partnership, joint venture, agency, or other association or relationship between First USA and the Company. To the extent that either party undertakes or performs any duty for itself or for the other party as required by this Agreement, the party shall be construed to be acting as an independent contractor and not as a partner, joint venturer, or agent for the other party.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement as of the day and year first written above.

FIRST USA:

FIRST USA FINANCIAL SERVICES, INC.

By: _____

Name: James Baumgartner

Title: President

COMPANY:

CITY OF COLLEGE STATION

By: _____

Name: _____

Title: _____

Company Attestation:

The undersigned, a duly authorized officer or representative of the Company, does hereby certify that the Company has been duly authorized to enter into and perform this Agreement and that the person signing above on behalf of the Company, whose execution of this Agreement was witnessed by the undersigned, is an officer, partner, member or other representative of the Company possessing authority to execute this Agreement.

By: _____

Name: _____

Title: _____

EXHIBIT A

Card Capabilities:

1. Fleet/Fuel (MasterCard only).

The Company _____ elects X **does not elect** to add Fleet/Fuel capabilities to the Cards and Accounts so that Cardholders may purchase, in the normal course of business, goods and services related to the fuel and maintenance needs of its vehicles for the benefit of the Company.

2. Purchasing.

The Company X elects _____ **does not elect** to add Purchasing Card capabilities to the Cards and Accounts so that Cardholders may purchase, in the normal course of business, goods and services for the benefit of the Company.

3. Central Travel.

The Company _____ elects X **does not elect** to add Central Travel Account capabilities to the Accounts so that Company personnel may purchase, in the normal course of business, transportation on common carriers through Travel Agents, for the benefit of the Company.

The Company from time to time shall provide First USA with Travel Agent Authorizations, which shall be in such form and content as First USA, in its sole discretion, shall determine. A Travel Agent Authorization shall: (i) contain the name and address of each Travel Agent through whom Transactions may be made; and (ii) be fully completed and executed by an Authorized Signer and delivered to First USA.

The Company shall be responsible for instructing its Travel Agents in the handling and processing of Transactions. Travel Agents shall, for the purposes of this Agreement, be deemed to be agents of the Company and not of First USA. No fee shall be payable by First USA to any Travel Agent for performing any services hereunder.

As used herein, the following terms shall have the meanings indicated below:

"Travel Agent Authorization" means a request by the Company to First USA to authorize a Travel Agent to charge Transactions to an Account.

"Travel Agents" means travel agents or agencies designated by the Company in accordance with the foregoing provisions.

4. Travel and Entertainment.

The Company _____ elects X **does not elect** to add travel and entertainment purchase capabilities to the Cards and Accounts so that Cardholders may purchase, in the normal course of business, travel and entertainment and related goods and services for the benefit of the Company. Check one of the following to be applicable if the Company elects travel and entertainment capabilities:

_____ The Company shall have full corporate liability for all travel and entertainment charges. Accordingly, all terms and conditions of this Agreement for billing and payment set forth in Section 4 of this Agreement and all other provisions applicable to general corporate liability for charges made with the Cards and Accounts shall also be applicable to travel and entertainment charges.

OR

_____ The Company shall have full corporate liability for all travel and entertainment charges. All amounts due under each Card and Account shall be billed to the relevant Cardholder via periodic statements and shall be payable in full upon receipt by the Cardholder. Such statements may, at First USA's option, be sent by mail or made available electronically via PaymentNet, the Internet, or other means. All other provisions applicable to general corporate liability for charges made with the Cards and Accounts shall also be applicable to travel and entertainment charges.

OR

_____. The Company shall have full corporate liability for travel and entertainment charges, but only with respect to the Visa and MasterCard travel and entertainment Merchant Category Codes defined for the Accounts during the implementation process. Accordingly, all terms and conditions of this Agreement for billing and payment set forth in Section 4 of this Agreement and all other provisions applicable to general corporate liability for charges made with the Cards and Accounts shall also be applicable to such travel and entertainment charges. With respect to all other travel and entertainment charges, the Company elects to have contingent liability for travel and entertainment charges in accordance with the following terms and conditions:

With respect to obligations and liabilities arising from such other travel and entertainment Transactions ("**Other T&E Transactions**"), each Cardholder shall be liable for all indebtedness related to such Transactions with respect to his or her Card, as provided in the Cardholder Agreement. All such amounts shall be billed to the relevant Cardholder via periodic statements and shall be payable in full upon receipt by the Cardholder. Such statements may, at First USA's option, be sent by mail or made available electronically via PaymentNet, the Internet, or other means. The Cardholder shall remit payment to First USA under the terms described herein and in the Cardholder Agreement. The Company hereby irrevocably, absolutely and unconditionally guarantees to First USA the prompt payment and performance when due of all indebtedness, obligations and liabilities (including, without limitation, related fees) from time to time outstanding with respect to each Account, for Other T&E Transactions that constitute Ordinary Course Transactions; provided, that the Company shall not be liable for any indebtedness related to Other T&E Transactions that constitute Other Transactions, Unauthorized Transactions or Ordinary Course Transactions previously reimbursed by the Company to the Cardholder.

OR

_____. The Company shall be contingently liable for all travel and entertainment charges in accordance with the following terms and conditions:

With respect to obligations and liabilities arising from travel and entertainment Transactions ("**T&E Transactions**"), each Cardholder shall be liable for all indebtedness related to such Transactions with respect to his or her Card, as provided in the Cardholder Agreement. All amounts due under each Card and Account shall be billed to the relevant Cardholder via periodic statements and shall be payable in full upon receipt by the Cardholder. Such statements may, at First USA's option, be sent by mail or made available electronically via PaymentNet, the Internet, or other means. The Cardholder shall remit payment to First USA under the terms described herein and in the Cardholder Agreement. The Company shall reimburse each Cardholder for the full amount of all Ordinary Course Transactions of such Cardholder, prior to the time such amount becomes due and payable by the Cardholder to First USA. If the Company satisfies such obligation, it shall have no liability to First USA for Transactions charged to such Cardholder's travel and entertainment Accounts. If the Company fails to satisfy such obligation, however, it shall pay to First USA, in accordance with the terms of Section 4.1 of this Agreement, the amount of all Ordinary Course Transactions for which the Cardholder has not been fully reimbursed, together with (i) the related fees described in Section 4 of Exhibit B, and (ii) any and all costs (including attorneys' fees) incurred in enforcing the obligations of the Company hereunder. The Company hereby irrevocably, absolutely and unconditionally guarantees to First USA the prompt payment and performance when due of all indebtedness, obligations and liabilities (including, without limitation, related fees) from time to time outstanding with respect to each Account, for T&E Transactions that constitute Ordinary Course Transactions; provided, that the Company shall not be liable for any indebtedness related to T&E Transactions that constitute Other Transactions, Unauthorized Transactions or Ordinary Course Transactions previously reimbursed by the Company to the Cardholder.

5. Cash Advance.

The Company _____elects X **does not elect** to add cash advance capabilities to the Cards and Accounts so that Cardholders may obtain cash advances for business or commercial purposes. First USA shall provide access to cash through participating Automated Teller Machine ("**ATM**") networks and Visa and MasterCard member offices. Cardholders who are so authorized may obtain cash by activating an ATM with a Card or by presenting the Card at a Visa and MasterCard member office. First USA may establish predetermined cash advance limits for each Cardholder as agreed by First USA and

the Company. First USA may refuse cash advance access to any Cardholder in its sole discretion. The cash advance feature may be disabled by any Authorized Signer upon written notice to First USA, subject to Section 3.1 of this Agreement.

6. Logo.

The Company _____elects X does not elect to have its name, trademark, or logo, in a form supplied by the Company to First USA and conforming to First USA and Visa and MasterCard guidelines, embossed on the Cards.

EXHIBIT B

1. Program Contacts:

Primary, Day to Day Contacts:

City of College Station	First USA
Name: Carol Arnold	Name:
Title:	Title: Client Relations Specialist
Address: 1101 Texas Avenue College Station, TX 77842	Address: 3995 South 700 East, Suite 400 Salt Lake City, Utah 84107
Phone: (979) 764-3565	Phone:

Notice Contacts:

City of College Station	First USA
Name: Cheryl Turney	Name: Cynthia Smith
Title:	Title: Senior Vice President
Address: 1101 Texas Avenue College Station, TX 77842	Address: 3995 South 700 East, Suite 400 Salt Lake City, Utah 84107
Phone: (979) 764-3557	Phone: (801) 281-5800

2. Pricing Assumptions:

Pricing assumptions with respect to Net Spend, number of Accounts to be requested, average purchase Transaction amount, and Average File Turn are as follows:

For Fleet Cards: N/A

Contract Year	Net Spend	Number of Cards
Year 1	\$	
Year 2	\$	
Year 3	\$	

Average purchase Transaction amount: \$21

Average File Turn: 16-29 days

For T&E Cards: N/A

Contract Year	Net Spend	Number of Cards
Year 1	\$	
Year 2	\$	
Year 3	\$	

Average purchase Transaction amount: \$180

Average File Turn: 16-29 days if Company bill/Company pay; 35-40 days if Cardholder bill/Cardholder pay

For Purchasing Cards:

Contract Year	Net Spend	Number of Cards
Year 1	\$10,000,000	500
Year 2	\$10,000,000	500
Year 3	\$10,000,000	500

Average purchase Transaction amount: \$200

Average File Turn: 16-29 days

For Travel Accounts: N/A

Contract Year	Net Spend	Number of Accounts
Year 1	\$	
Year 2	\$	
Year 3	\$	

Average File Turn: 16-29 days

“Net Spend” means the aggregate amount of individual purchases posted to Accounts, net of the aggregate amount of all refunds to Accounts (such as credits for returned merchandise or disputed billing items), and shall not include (i) those amounts representing annual fees, finance charges and other fees or charges posted to Accounts (such as late fees, returned check fees, cash advance fees, collection costs, administrative fees and reporting fees) and (ii) the amount of all cash advance Transactions and fees. Net Spend shall also exclude fraudulent or unauthorized charges posted to the Accounts and any amounts posted to an Account with respect to which a Card has been reported lost or stolen.

“Average File Turn ” means the average number of days between the Transaction posting date and the payment posting date of the full amount due, for Accounts.

Variances: The fees described in this Exhibit B are calculated based upon the information listed above. To the extent that for any quarterly period any actual amount or value varies from a Pricing Assumption by an amount which First USA in its sole discretion deems to be material, First USA reserves the right to ratably adjust the fees specified in this Exhibit B for the remaining term of the Agreement to compensate for such variance.

Billing and Payment:

Billing and payment of all charges made using the Commercial Card Program are subject to the following:

- a. Billing Cycle/Payment Frequency: Monthly
- b. Payment Method Options for payments made by Company: Check, EDI, Wire Transfer, ACH Debit or Credit
- c. Payment Method for payments made by individual Cardholder: Check

Fees:

a. Annual Administration Fee:

Fleet Cards: \$ N/A per Card per year or \$ _____ per Card per month.

Purchasing Cards: \$ 0.00 per Card per year or \$ 0.00 per Card per month.

T&E Cards: \$ N/A per Card per year or \$ _____ per Card per month.

Central Travel Account: \$ N/A per Account per year or \$ _____ per Account per month.

Provided, however, if no Cards are issued, the annual administrative fee shall be charged for each Account number.

b. Cash advance Fee: Per Transaction (if Cash Advances are permitted under Exhibit A):
2.5% of cash advance amount; minimum \$2.50 per Transaction.

c. Late Payment Fee: For each product selected on Exhibit A, per occurrence:

Fleet Card and Purchasing Card grace period after statement billing date: 14 days

1.0% late fee at 15 days

2.5% late fee at 45 days and every 30 days thereafter

Central Travel Account grace period after statement billing date: 25 days

1.0% late fee at 30 days

2.5% late fee at 60 days and every 30 days thereafter

T&E Card (Company bill/Company pay) grace period after statement billing date: 25 days

1.0% late fee at 30 days

2.5% late fee at 60 days and every 30 days thereafter

T&E Card (Cardholder bill/Cardholder pay) grace period after statement billing date: 25 days

\$10.00 late fee at 30 days

2.5% late fee at 60 days and every 30 days thereafter

d. Currency Conversion: 1% of gross purchased amount

e. Copy Retrieval Fee, Per Request: \$10.00 each

f. Returned Item (Insufficient Funds) Fee: \$15.00 per occurrence

g. Emergency Card Replacement Fee: \$Waived if effected through First USA, so long as the frequency of emergency card replacement requests is considered reasonable by First USA. If effected through MasterCard or Visa, the Company shall pay any fees charged by MasterCard and Visa for emergency card replacement.

h. Complete Company Card Design and Production: \$ _____ setup and \$ _____ per Card.
Company logo on Cards: \$500 production fee.

i. Development of custom mappers: \$100 per hour; minimum charge \$400; maximum charge \$2,000.

j. Development of customized reports: \$100 per hour; minimum charge \$400; no maximum charge.

Issue Term of Cards:

Each Card shall be issued for a period of three years.

Reporting Software Choice: PaymentNet™ (at no additional charge), unless another choice is indicated below:

ProCard:		Cost	
Smart Data:		Cost	
InfoSpan:		Cost	
Other:		Cost	

Monthly Data Transmission Fee Per Additional Transmission Endpoint (In excess of two): \$_____.

Authorized Signer(s):

The individual(s) named below are authorized to act on behalf of the Company in administering all aspects of the Program, including, but not limited to, requesting Cards or Accounts for Cardholders, making administrative changes to the Program or Card controls, and terminating use of Cards or Accounts.

Authorized Signers		
Authorized Signer (Print Name)	Authorized Signer (Signature)	Title
Authorized Signer (Print Name)	Authorized Signer (Signature)	Title
Authorized Signer (Print Name)	Authorized Signer (Signature)	Title
Authorized Signer (Print Name)	Authorized Signer (Signature)	Title

The undersigned, a duly authorized officer or representative of the Company, does hereby certify that each of the persons listed in this Exhibit B as an Authorized Signer is an officer, partner, member or other representative of the Company possessing authority to execute Card Requests and each specimen signature of each such person set forth above is such person's genuine signature.

By: _____
Name: _____
Title: _____

Performance Incentive.

- (a) Calculation of Incentive. For each Contract Year (or, if this Agreement is terminated prior to the end of a Contract Year, the period from the end of the preceding Contract Year to the termination date), First USA shall pay to the Company an incentive calculated as a percentage of the Net Spend for such period, in accordance with the following table and terms (the “Incentive”).

Average File Turn	Average Annual Net Spend Per Card		
	\$15,000	\$20,000	\$25,000
	to \$19,999	to \$24,999	& Over
20 Days or Less	0.95%	1.00%	1.10%
21 - 25 Days	0.80%	0.90%	0.95%
25 - 29 Days	0.65%	0.75%	0.80%

The Incentive is subject to reduction by all Losses. The Incentive shall be determined by deducting the Losses incurred by First USA on the Company's Accounts during the twelve-month Incentive period from the gross Incentive amount for such period. Upon termination of this Agreement, the Losses for the six-month period ending on the termination date (the “**Last Six-Month Period**”) will be deemed, for purposes of calculating the Incentive, to be equal to the Losses for the six-month period immediately preceding the Last Six-Month Period.

In all cases, the Incentive is calculated annually and is payable within 60 days after the end of each Contract Year. In the event that the due date for any Incentive payment falls on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day.

In the event this Agreement is terminated prior to the end of a Contract Year, the actual Net Spend for the elapsed portion of such Contract Year shall be annualized solely for the purpose of determining, in accordance with the foregoing table, the percentage to be applied to such actual Net Spend.

- (b) Variances. The Incentive is calculated based upon the Pricing Assumptions listed in this Exhibit. To the extent that for any annual period any actual amount or value varies from a Pricing Assumption by an amount which First USA in its sole discretion deems to be material, First USA reserves the right to ratably adjust the Incentive for the remaining term of the Agreement to compensate for such variance.
- (c) Definitions.

“Contract Year” means a 12-month period beginning on the date hereof or an anniversary of such date.

“Losses” means losses incurred by First USA on Accounts due to fraud or other unauthorized use and all other amounts that are outstanding under Accounts and are not paid within 180 days of their respective due dates.